

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
DELTA DIVISION**

DENNIS WAYNE BURTON,

PLAINTIFF,

VS.

CIVIL ACTION NO. 2:06CV216-P-A

**CITY OF SENATOBIA, MISSISSIPPI;
SAMMY WEBB, CHIEF OF POLICE for
the City of Senatobia, Mississippi in His
Official and Individual Capacities; OFFICER
GARY RIALES, in His Official and
Individual Capacities; and JOHN DOE
DEFENDANTS “A” THROUGH “Z,”**

DEFENDANTS.

FINAL JUDGMENT

In accordance with a Memorandum Opinion issued this day, **IT IS ORDERED AND
ADJUDGED** that:

- (1) Defendants' Motion for Summary Judgment [39] is **GRANTED**; therefore,
- (2) The plaintiff's State law claims of assault and battery, gross negligence, and deprivation of rights under the Mississippi Constitution against all defendants are **DISMISSED WITH PREJUDICE**;
- (3) The plaintiff's federal § 1983 claims against the City of Senatobia, Mississippi and Chief Sammy Webb and Officer Gary Riales in their official capacities for denial of the right to counsel, excessive punishment, failure to train, and excessive force are **DISMISSED WITH PREJUDICE**;
- (4) The plaintiff's federal § 1983 claims against the City of Senatobia, Mississippi and Chief Sammy Webb and Officer Gary Riales in their official capacities for unlawful arrest, denial of due process, and unreasonable search and seizure are **DISMISSED WITHOUT PREJUDICE** until the plaintiff can satisfy the requirements of *Heck v. Humphrey*, 512 U.S. 477, 486-97 (1994) and the *Rooker/Feldman* doctrine discussed in the Memorandum Opinion;

(5) The plaintiff's federal § 1983 claims against Chief Sammy Webb in his individual capacity are **DISMISSED WITH PREJUDICE** pursuant to the doctrine of qualified immunity;

(6) The plaintiff's federal § 1983 claims against Officer Gary Riales in his individual capacity for unlawful arrest and unreasonable search and seizure are **DISMISSED WITHOUT PREJUDICE** until the plaintiff can satisfy the *Heck* doctrine and the *Rooker/Feldman* doctrine;

(7) The plaintiff's federal § 1983 claims against Officer Gary Riales in his individual capacity for excessive force is **DISMISSED WITH PREJUDICE**; therefore,

(8) This case is **CLOSED**.

SO ORDERED this the 3rd day of March, A.D., 2008.

/s/ W. Allen Pepper, Jr.
W. ALLEN PEPPER, JR.
UNITED STATES DISTRICT JUDGE